IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.2744 OF 2006

Dilip Pandurang Kamath .... Petitioner
Vs.
State of Maharashtra & Anr. .... Respondents

The Petitioner in person.

Sarvasri Raja Thakare with A.M. Chimalkar,
Special Public Prosecutors, for the CBI.

Shri M.S. Mhambre, APP, for the State.

CORAM: R.M.S. KHANDEPARKAR &
S.R. SATHE, JJ.

DATED: JULY 17, 2007

P.C:

1. Heard the petitioner in person and the learned counsel for the respondents. Though various contentions are sought to be raised in the matter in support of the relief asked for quashing the charge under Section 3(1)(ii) of the MCOC Act and restricting the prosecution under Section 24 of the MCOC Act, without prejudice to the rights of the petitioner to defend the charge, perusal of the charges which are framed against the accused in the case in hand disclose that the MCOC Court does not appear to have applied its mind in the manner it was required to be applied for the purpose of framing of the charges. Mere reproduction of the statutory provisions comprised under the relevant and the

punishing sections from the concerned statute is not sufficient for framing of the charge. The charge should reveal to the accused the allegation of the offence which the accused is required to meet. Obviously, therefore, there has to be reference to the factual matrix as briefly as possible and the same should disclose the acts committed by the accused which could reveal the commission of offence for which he is being charged. In the absence of the same, the charge cannot be said to be validly and properly framed. Perusal of the charges framed against the petitioner does not disclose such an exercise having been undertaken by the concerned Court in respect of framing of the charges. The learned counsel appearing for the CBI fairly conceded that the charges would require re-framing. In the circumstances, without going into the issue which is sought to be raised in the petition, we leave the said issue to be decided by the concerned Court in case the same is sought to be raised by the petitioner at the time of re-framing of the charges. We expect the MCOC Court to suo motu take up the matter for re-framing of the charges in accordance with the provisions of law, bearing in mind the observations made hereinabove. Liberty to the parties to place the copy of this order before the concerned Court. With the above observations and without expressing any opinion on any of the issues sought to be raised in the matter, the petition is

disposed of.

2. The order passed today, however, shall not in any way affect the proceedings which have already been concluded in relation to the charges already framed as well as those which are already concluded in respect of certain accused.

(S.R.Sathe, J.) (R.M.S.Khandeparkar, J.)

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